Indian and Northern Affairs Canada

Affaires indiennes et du Nord Canada

Annual Report to Parliament

Access to Information Act

2008 - 2009

Canada

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REPORT ON THE ACCESS TO INFORMATION ACT

INTRODUCTION

The purpose of the *Access to Information Act* (*ATIA*), proclaimed in July 1983, along with its companion legislation, the *Privacy Act*, is "*to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution*" (section 2) to Canadians, permanent residents and anyone living in Canada.

OVERVIEW

The principles underlying this legislation are:

- government information should be available to the public;
- necessary exceptions to the right of access should be limited and specific;
- the *ATIA* is not meant to replace existing means of providing information;
- decisions on the disclosure of government information should be reviewed independently of government; and,
- apart from for a few specific exceptions, personal information cannot be disclosed without the consent of the individual to whom the information pertains.

This Annual Report to Parliament is for the 2008-2009 fiscal year, as required under subsection 72(1) of the *Access to Information Act*.

INDIAN AND NORTHERN AFFAIRS AND THE ACCESS TO INFORMATION AND PRIVACY DIRECTORATE - ADMINISTRATION

The Access to Information and Privacy (ATIP) Directorate reports to the Corporate Secretary who is directly accountable to the Deputy Head and is a member of the Department's Executive Committee. The Directorate is essentially comprised of two groups, Access and Privacy.

In order to meet our obligations under the Access to Information Act, effective access to our departmental records must be done within a culture of openness and transparency. In this respect, by continually examining our practices and processes, we can adapt new procedures to meet the needs of those seeking government records.

Indian and Northern Affairs Canada (INAC) recognizes that timely access to information requires effective management of its information holdings. In this regard, the ATIP Directorate within INAC has changed the manner in which it defines access requests.

The restructuring of the ATIP Directorate will enable it to process access requests more effectively. The Access Division will be composed of three distinct teams: the Administrative Team, the Records Retrieval Team and the Analytical Team. This will streamline the processing of requests and improve response time. The Records Retrieval Team will play a key component by ensuring that records are received from the program areas in a timely manner and that any issues relating to records management will be identified and mitigated with the respective programs. This will provide more time to conduct record analysis by those responsible within the Access Division.

The new organization will also place greater emphasis on accountability in responding to access requests, and at the same time, we are confident that this new approach will facilitate more effective cooperation amongst all concerned and enhance the manner in which we manage the processing of our requests.

Indian Residential Schools Resolution of Canada (IRSRC) was integrated with the Department in June 2008. A separate Annual Report to Parliament was provided by IRSRC for the fiscal year 2007-2008. For the fiscal year 2008-2009, all information and figures, regarding the former IRSRC, have been fully integrated into this Annual Report.

DEPARTMENTAL MANDATE

The Department is responsible for two separate yet equally important mandates: **Indian and Inuit Affairs** and **Northern Development**. This broad mandate is derived largely from the *Department of Indian Affairs and Northern Development Act*, the *Indian Act*, territorial acts and legal obligations arising from section 91(24) of the *Constitution Act*. The Department is responsible for administering more than 50 statutes in total. Consequently, INAC's mandate is complex and its responsibilities encompass a broad spectrum of programs.

The Department is responsible for meeting the Government of Canada's obligations and commitments to First Nations, Inuit and Métis and for fulfilling the federal government's constitutional responsibilities in the North. The Minister of Indian Affairs and Northern Development is also the Federal Interlocutor for Métis and Non-Status Indians. The Federal Interlocutor's role is to provide a point of contact between the Government of Canada and Métis, Non-Status Indians and urban Aboriginal peoples.

DELEGATED AUTHORITIES

Under section 73 of the ATIA Act, the Minister's authority is delegated to enable the Department to meet its legislated requirements as well as to exercise its powers. Responsibility for all sections of the Acts has been delegated to the Corporate Secretary and to the Departmental Access to Information and Privacy Coordinator (Director) within the Corporate Secretariat. Certain staff are also delegated to carry out specific administrative functions. The Department's Delegation Orders for the Act can be found at Appendix A.

EDUCATION AND TRAINING

During the last fiscal year, the promotion and delivery of information sessions focussed more at headquarters than at a regional level, involving 20 sessions. Extensive regional training was conducted in 2007-2008 and will again be conducted in 2009-2010.

The objective of these information sessions was to educate employees with regard to the ATIP process and their responsibilities in support of the department's compliance with both the ATI and Privacy Acts. These sessions have proven to be very effective in building up good relationships between the ATIP office and the various sectors of the department and thus are considered a valuable investment.

ATIP sessions are also now being offered as part of regular training programs to staff via the Human Resources' training calendar. Discussions were also initiated to have ATIP training become mandatory for all employees of the Department.

Ultimately, staff training will improve our capacity to meet our legislative obligations including the "duty to assist" requesters.

INFORMATION HOLDINGS

A description of the classes of institutional records held by the department can be found in the following Info Source publications for 2008-2009: *Sources of Federal Government Information and Sources of Federal Employee Information.*

Info Source can be accessed through public and academic libraries and constituency offices of federal members of Parliament, as well as on the Internet at http://www.infosource.gc.ca.

READING ROOM

A reading room is available for individuals wanting to review departmental records publications, and other materials. The room is situated in the departmental library and individuals can contact library personnel for use of the facility. The departmental library is located at:

10 Wellington Street
Gatineau, Québec
K1A 0H4
Telephone: 819-997-8205
Fax: 819-953-5491

REQUESTS UNDER THE ACCESS TO INFORMATION ACT

Between April 1, 2008 and March 31, 2009, the Department received three hundred and seventy-eight (378) requests for information under the *Access to Information Act*. Along with these new requests, ninety-eight (98) requests were carried over from the previous fiscal year, for a total of four hundred and seventy-six (476) requests for the reporting period. During this reporting period, three hundred and fifty-six (356) requests were completed; one hundred and twenty (120) active files will be carried over to the next reporting period. The annual statistical report on the operation of the *Access to Information Act* can be found on page 8 and 9.

SOURCES

The sources of Access to Information requests received during the reporting period break down as follows (see Figure 1):

Media	67
Academia	14
Business	137
Organizations	59
Public	101
TOTAL	**378**

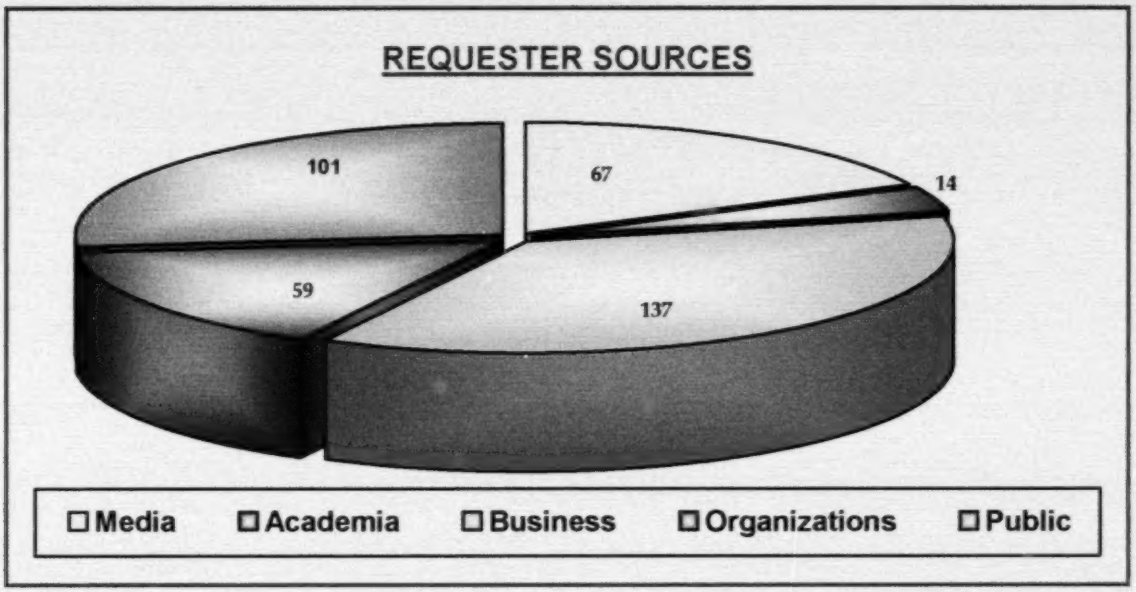

Figure 1

DISPOSITION OF COMPLETED REQUESTS

The distribution of completed requests is as follows (see Figure 2):

• All Disclosed	83
• Disclosed in Part	135
• Nothing Disclosed (Excluded)	1
• Nothing Disclosed (Exempt)	5
• Transferred	4
• Unable to Process[1]	53
• Abandoned by the Applicant	70
• Treated Informally	5
TOTAL	**356**

FEES AND COSTS

For the reporting period, the Department collected $9,537.20 in fees for reproduction searching and preparation costs, and waived $2,890.95 in fees. The ATIP office incurred an estimated $484,095 in salary and $110,144 in administrative costs to administer the *Access to Information Act*. These costs do not include the resources expended by the program areas of the Department to meet the requirements of the Act.

[1] There were no records responsive to these requests.

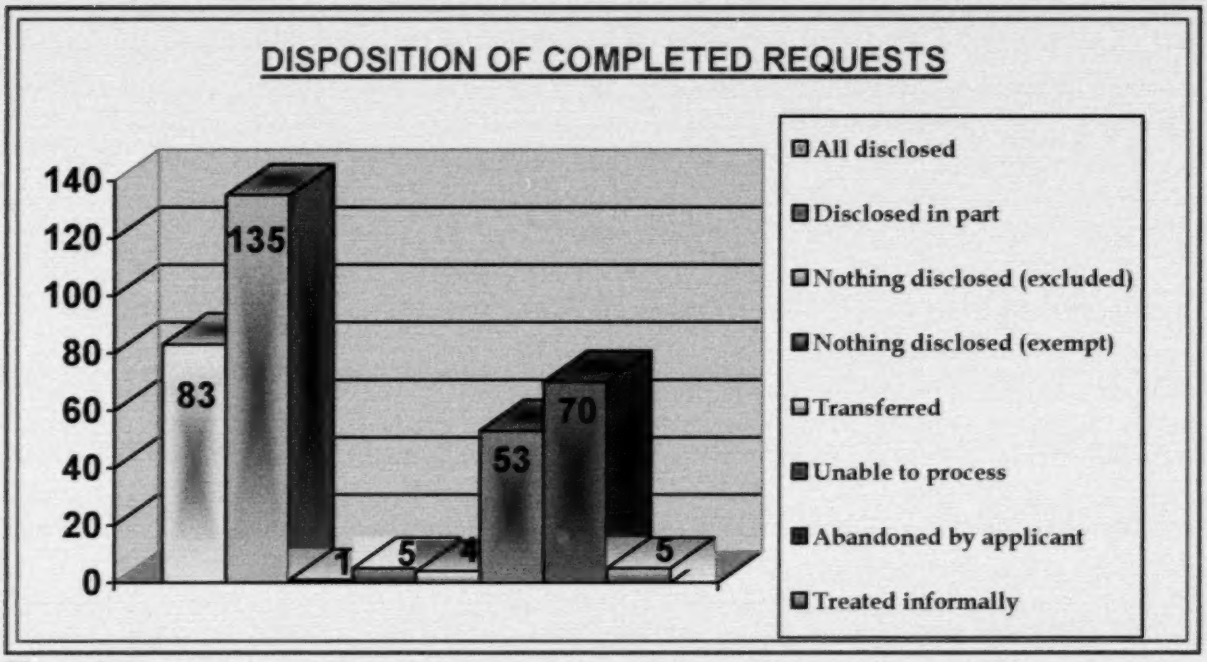

Figure 2

CONSULTATIONS WITH OTHER INSTITUTIONS

When a request contains records that are of interest to another institution, the Access to Information and Privacy Coordinator of that institution is consulted. Indian and Northern Affairs Canada was consulted in one hundred and thirty nine (139) cases in the reporting period.

COMPLAINTS AND INVESTIGATIONS

During the 2008-2009 reporting period, thirteen (13) complaints against the Department were filed with the Office of the Information Commissioner of Canada in relation to the processing of requests under the Act. It should be noted that eleven (11) complaints were carried over from last fiscal-year. As such, eighteen (18) investigations were completed and six (6) will be carried over to the next reporting period. Of the eighteen (18) completed investigations, the Information Commissioner of Canada concluded that ten (10) complaints were not substantiated and seven (7) were resolved to the satisfaction of the requestor and one (1) was discontinued. None of the complaints were considered to be founded.

Government of Canada / Gouvernement du Canada

REPORT ON THE ACCESS TO INFORMATION ACT
RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATON

Institution				Reporting period / Période visée par le rapport	
Indian and Northern Affairs Canada / Affaires indiennes et du Nord Canada				04/01/2008 TO/À 03-31-2009	
Source	Media / Médias	Academia / Secteur universitaire	Business / Secteur commercial	Organization / Organisme	Public
	67	14	137	59	101

I Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information

Received during reporting period / Reçues pendant la période visée par le rapport	378
Outstanding from previous period / En suspens depuis la période antérieure	98
TOTAL	476
Completed during reporting period / Traitées pendant la période visées par le rapport	356
Carried forward / Reportées	120

II Disposition of requests completed / Disposition à l'égard des demandes traitées

1.	All disclosed / Communication totale	83	6.	Unable to process / Traitement impossible	53
2.	Disclosed in part / Communication partielle	135	7.	Abandoned by applicant / Abandon de la demande	70
3.	Nothing disclosed (excluded) / Aucune communication (exclusion)	1	8.	Treated informally / Traitement non officiel	5
4.	Nothing disclosed (exempt) / Aucune communication (exemption)	5		**TOTAL**	**356**
5.	Transferred / Transmission	4			

III Exemptions invoked / Exceptions invoquées

S. Art. 13(1)(a)	5	S. Art 16(1)(a)	3	S. Art. 18(b)	0	S. Art. 21(1)(a)	42
(b)	1	(b)	0	(c)	0	(b)	40
(c)	9	(c)	3	(d)	3	(c)	29
(d)	1	(d)	0	S. Art. 19(1)	111	(d)	10
S. Art. 14	17	S. Art. 16(2)	3	S. Art. 20(1)(a)	7	S. Art.22	1
S. 15(1) Art. International rel. / Relations interm.	0	S. Art. 16(3)	1	(b)	62	S. Art.23	33
Defence / Défense	5	S. Art. 17	0	(c)	31	.24	0
Subversive activities / Activités subversives	0	S. Art. 18(a)	0	(d)	23	S. Art.26	0

IV Exclusions cited / Exclusions citées

S. Art. 68(a)	7	S. Art. 69(1)(c)	0
(b)	2	(d)	1
(c)	2	(e)	11
S. Art. 69(1)(a)	8	(f)	0
(b)	0	(g)	20

V Completion time / Délai de traitement

30 days or under / 30 jours ou moins	177
31 to 60 days / De 31 à 60 jours	67
61 to 120 days / De 61 à 120 jours	45
121 days or over / 121 jours ou plus	67

VI Extensions / Prorogations des délais

	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus
Searching / Recherche	52	28
Consultation	11	39
Third party / Tiers	9	60
TOTAL	72	127

VII Translations / Traduction

Translations requested / Traductions demandées		
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
	French to English / Du français à l'anglais	0

VIII Method of access / Méthode de consultation

Copies given / Copies de l'original	215
Examination / Examen de l'original	2
Copies and examination / Copies et examen	1

IX Fees / Frais

Net fees collected / Frais net perçus			
Application fees / Frais de la demande	$1 741.40	Preparation / Préparation	$0.00
Reproduction	$1 777.00	Computer processing / Traitement informatique	$0.00
Searching / Recherche	$6 013.80	**TOTAL**	$9 537.20

Fees waived / Dispense de frais	No. of times / Nombre de fois	$
$25.00 or under / 25 $ ou moins	50	$ 435.30
Over $25.00 / De plus de 25 $	25	$ 2 455.60

X Costs / Coûts

Financial (all reasons) / Financiers (raisons)		
Salary / Traitement	$	484 095.50
Administration (O and M) / Administration (fonctionnement et maintien)	$	110 144.42
TOTAL	$	594 239.92

Person year utilization (all reasons) / Années-personnes utilisées (raison)	
Person year (decimal format) / Années-personnes (nombre décimal)	13.04

Supplemental Reporting Requirements for 2008-2009

Access to Information Act

In addition to the reporting requirements addressed in form TBS/SCT 350-62 "Report on the Access to Information Act", institutions are required to report on the following using this form:

Part III -- Exemptions invoked

Section 13

Subsection 13(e) _____0_____

Section 14

Subsections 14(a) _____6_____

14(b) _____10_____

Part IV – Exclusions cited:

Subsection 69.1 _____0_____

Exigences en matière de rapports pour 2008-2009

Loi sur l'accès à l'information

En plus des exigences relatives à l'établissement de rapports dont on traite dans le formulaire TBS/SCT 350-62, « Rapport concernant la Loi sur l'accès à l'information », les institutions sont tenues de déclarer ce qui suit en utilisant le présent formulaire :

Partie III – Exceptions invoquées

Article 13

Paragraphe 13(e) _____0_____

Article 14

Paragraphes 14(a) _____6_____

14(b) _____10_____

Partie IV – Exclusions citées

Paragraphe 69.1 _____0_____

Appendix A

Ministre des Affaires indiennes et du Nord canadien et interlocuteur fédéral auprès des Métis et des Indiens non inscrits

Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

Loi sur l'accès à l'information - Ordonnance de délégation de pouvoirs

En application des pouvoirs de désignation qui me sont conférés en vertu de l'article 73 de la *Loi sur l'accès à l'information*, j'autorise par les présentes les employés exerçant des fonctions ou occupant le poste de secrétaire du Ministère, Secrétariat du Ministère (numéro de poste 12294), le coordonnateur (numéro de poste 62185) de l'Accès à l'information et de la protection des renseignements personnels et les employés qui leur succéderont, y compris les employés qui les remplacent en leur absence, ou toute personne ou agent désigné par écrit pour les remplacer, à exercer ces pouvoirs, responsabilités ou fonctions dévolus au ministre en tant que chef de cette institution administrative en vertu de la Loi, et tel qu'énoncés dans l'annexe A ci-jointe.

J'autorise par la présente les conseillers principaux de l'Accès à l'information et de la protection des renseignements personnels (numéros de postes 62364, 12590, 12061 et 12058) et ceux qui leur succéderont, y compris, en leur absence, toute personne ou agent désigné par écrit pour agir en son nom, à exercer les pouvoirs, les responsabilités ou les

Access to Information Act – Delegation Order

Pursuant to the powers of designation conferred upon me by Section 73 of the *Access to Information Act*, the persons exercising the functions or positions of Corporate Secretary, Corporate Secretariat (position number 12294), and the departmental Access to Information and Privacy Coordinator (position number 62185) and their respective successors, including in their absence, a person or officer designated in writing to act in the place of the holder of any such functions or positions are hereby designated to exercise those powers, duties or functions of the Minister as the Head of the government institution under the Act, and as set out in the attached Schedule A.

The departmental Access to Information and Privacy Senior Advisors (position numbers 62364, 12590, 12061 and 12058) and their respective successors, including in her/his absence, a person or officer designated in writing as being authorized to act in the place of the holder of any such function or position, are hereby designated to exercise those powers,

fonctions dévolus au ministre en tant que chef de cette institution administrative du gouvernement en vertu de la Loi, et tel qu'énoncés dans l'annexe B ci-jointe.

duties or functions of the Minister as the Head of the government institution under the Act, and as set out in the attached Schedule B.

Ministre des Affaires indiennes et du Nord canadien
Minister of Indian Affairs and Northern Development

Signé à Gatineau, le 26 mai, 2008
Dated at Gatineau, the 26 of May, 2008

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
SCHEDULE TO DELEGATION ORDER

DESIGNATION PURSUANT TO SECTION 73 OF THE ACCESS TO INFORMATION ACT

Sections and Powers, Duties or Functions

8(2) Disclose personal information without the consent of the individual to whom it relates

8(4) Keep copies of requests made under 8(2)(e), keep records of information disclosed pursuant to such requests and to make those records available to Privacy Commissioner

8(5) Notify the Privacy Commissioner in writing of disclosure under paragraph 8(2)(m)

9(1) Retain a record of use of personal information

9(4) Notify the Privacy Commissioner of consistent use of personal information and update index accordingly

10 Include personal information in personal information banks

11(a) Publish annually an index of all personal information banks and their respective contents

11(b) Publish annually an index of all personal information held by the institution which is not part of a bank

14 Respond to request for access, within statutory deadline; give access or give notice

15 Extend time limit and notify applicant

16 Where access is refused

17(2)(b) Language of access or alternative format of access

17(3)(b) Access to personal information in alternative format

18(2) May refuse to disclose information contained in an exempt bank

APPENDIX A

19(1)	Shall refuse to disclose information obtained in confidence from another government
19(2)	May disclose any information referred to in 19(1) if the other government consents to the disclosure or makes the information public
20	May refuse to disclose information injurious to federal-provincial affairs
21	May refuse to disclose information injurious to international affairs and/or defence
22	May refuse to disclose information injurious to law enforcement and investigation
23	May refuse to disclose information injurious to security clearances
24	May refuse to disclose information collected by the Canadian Penitentiary Service, the National Parole Service or the National Parole Board
25	May refuse to disclose information injurious to which could threaten the safety of individuals
26	May refuse to disclose information about other individuals, and shall refuse to disclose such information where disclosure is prohibited under section 8
27	May refuse to disclose information subject to solicitor-client privilege
28	May refuse to disclose information relating to an individual's physical or mental health where disclosure is contrary to the best interests of the individual
31	Receive notice of investigation by the Privacy Commissioner
33(2)	Make representations to the Privacy Commissioner during an investigation
35(1)	Receive the Privacy Commissioner's report of findings of the investigation and give notice of action taken
35(4)	Give complainant access to information after 35(1)(b) notice
36(3)	Receive Privacy Commissioner's report of findings of investigation of exempt
37(3)	Receive report of Privacy Commissioner's findings after compliance investigation where the institution has not complied with sections 4 to 8

51(2)(b) Request that matter be heard and determined in National Capital Region

51(3) Request and be given right to make representations in Section 51 hearing

72(1) Prepare Annual Report to Parliament

77 Carry out responsibilities conferred on the head of the institution by the regulations made under section 77 which are not included above

APPENDIX A

DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT
SCHEDULE TO DELEGATION ORDER

DESIGNATION PURSUANT TO SECTION 73 OF THE ACCESS TO INFORMATION ACT

Sections and Powers, Duties or Functions

10	Include personal information in personal information banks
11(a)	Publish annually an index of all personal information banks and their respective contents
11(b)	Publish annually an index of all personal information held by the institution which is not part of a bank
15	Extend time limit and notify applicant
31	Receive notice of investigation by the Privacy Commissioner